

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 27.11.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.TAMILVANAN

Writ Petition No.8313 of 2001

K.Somu

.. Petitioner

Vs.

1.The Director of Employment Exchange,
Chennai.

2.The Additional Director of Employment
Exchange, Salem, Salem District.

3.The Additional Director of Employment
Exchange, Namakkal, Namakkal District.

4.The Salem District Central Co-operative
Bank. Cherry Road, Salem-1.

Rep. By its Managing Director

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the fourth respondent to consider the appointment of the petitioner as an Assistant in the fourth respondent Bank in Salem District with retrospective effect from the date the fourth respondent made appointments to the post of Assistants based on the list called for from the Employment Exchange at Namakkal and Salem in February 2001.

For Petitioner : Mr. S.Silambanan

For Respondents : Mr.S.Ramasamy,
Additional Advocate General-II
assisted by Mrs.Bhavani Subbarayan,GA.

ORDER

(Order of the Court was delivered by P.SATHASIVAM, J.)

The petitioner has filed the above writ petition for issuance of a writ of Mandamus to direct the fourth respondent to consider the appointment of the petitioner as an Assistant in the fourth respondent Bank in Salem District with retrospective effect from the date the fourth respondent made appointments to the post of Assistants based on the list called for from the Employment Exchange at Namakkal and Salem in February 2001.

2. According to the petitioner, he belongs to the backward community and possessed Bachelors Degree in B.A., and Diploma in Co-operation and Bachelor of Law Degree. He registered his Diploma in Co-operation in the year 1989 and his Bachelors degree in the year 1998 with the Employment Exchange at Salem. The fourth respondent-Salem Central Co-operative Bank (hereinafter referred to as the Bank) decided to fill up 142 vacancies in the post of Assistant in various branches of the Bank. The Bank has called for list of candidates from the Employment Exchange Offices at Namakkal and Salem in February, 2001. After bifurcation of the Salem District into Salem District and Namakkal District, the petitioner's name was transferred to Employment Exchange Office at Namakkal. The petitioner had registered his B.A. Degree with the Employment Exchange on 27.02.1990. The Salem Employment Exchange has sent names in the ratio of 1:5 (5 candidates for 1 vacancy). The petitioner's name was also forwarded to the Bank. It appears that the second and third respondents had not sent the list in the ratio of 1:1. Because of the irregularity, the said list was cancelled by respondents 2 and 3. Thereafter, he came to know that both the Salem and Namakkal Employment Exchanges have been asked to sponsor the names of candidates for the posts of Assistant having degree with Diploma in Co-operation qualification. He verified that even this time his name was not sponsored by the Namakkal and Salem Employment Exchanges. Respondents 2 and 3 have made a grave mistake, taking into consideration of only the date on which the candidate has qualified and registered his diploma in Co-operation. The petitioner has completed 35 years and would become ineligible for appointment to the post thereafter as he will be over-aged. Though his name was sponsored for the post of Assistant Manager in the year 1993, in 2001, his name was not forwarded. Aggrieved by the same and having no other remedy, the petitioner has filed the present writ petition for issuance of appropriate direction.

3. In the counter affidavit filed by the fourth respondent it is specifically stated that the name of the petitioner was not sent by the Employment Exchange, hence he was not considered for appointment in the Bank.

4. On behalf of the second respondent, viz., The Assistant Director, District Employment Office, Salem-7 a counter affidavit was filed, wherein it is submitted that the petitioner, viz., K.Somu, was registered his +2 qualification and Diploma in Co-operation on 26.07.1989 and B.A. Degree on 27.02.1990. He belongs to Backward Class Community. The Managing Director, Salem District Central Co-operative Bank Limited, Salem-1 had notified vacancies to the District Employment Office, Salem, for the posts of Assistant. There is no separate District Central Co-operative Bank for Namakkal District and only branches of Salem District Co-operative Bank are functioning in Namakkal District. The Assistant Director, District Employment Office, Salem, has fixed the cut-off seniority as 14.09.1992 for Backward Class category and requested the District Employment Office, Namakkal to send the eligible list of candidates. Accordingly, a list of candidates including the name of the petitioner was sponsored by the District Employment Office, Namakkal in the ratio of 1:5 candidates. It is further stated in G.O.Ms.No.57, Co-operative Food and Consumer Welfare Department, dated 21.01.2001, Government have ordered that the list of candidates for any post in any co-operative institution should be sent in the ratio of 1:1. Based on the same, the list of candidates already sponsored in the ratio of 1:5 for the Assistant post were cancelled and fresh lists of candidates in the ratio of 1:1 were prepared and sent to the Managing Director, Salem District Central Co-operative Bank Limited, Salem. Now the cut-off date is fixed as 28.03.1989. In such circumstances, the candidates, who were registered upto the seniority of 28.03.1989 alone were sponsored to the employer. Since the petitioner reaches his seniority only on 26.07.1989, his name could not be nominated. The Educational qualification prescribed by the employer for the post of Assistant is a degree with Diploma in Co-operation Training, hence candidates were sponsored to the employer, according to their educational qualification, seniority in registration and ratio of submission, as per G.O.ms.No.57 dated 21.2.2001. Since the petitioner's seniority did not fall within the purview of seniority, his name was not sponsored to the employer.

5. It is clear from the counter affidavit of the second respondent that the educational qualification prescribed by the Bank for the post of Assistant is a degree with Diploma in Co-operation Training. It is further seen that as per the G.O.Ms.No.57, Co-operative Food and Consumer Welfare Department, dated 21.02.2001, the names were sponsored to the employer viz., Salem District Central Co-operative Bank Limited. It is also seen from the counter affidavit of the second respondent that the cut off date was arrived as 28.03.1989. Because of the same, the candidates, who were registered upto 28.03.1989 were sponsored to the employer-Bank. The counter affidavit further shows that the petitioner became eligible only on 26.07.1989. In view of the same, his name was not sponsored. There is no contra material in the form of reply affidavit

controverting the factual information furnished by the second respondent. In such circumstances and in view of the factual details referred to above, particularly from the counter affidavit of the second respondent, we are of the view that no direction as claimed by the petitioner can be granted. Accordingly, the writ petition fails and the same is dismissed. No costs.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

- 1.The Director of Employment Exchange,
Chennai.
- 2.The Additional Director of Employment
Exchange, Salem, Salem District.
- 3.The Additional Director of Employment
Exchange, Namakkal, Namakkal District.
- 4.The Managing Director,
Salem District Central Co-operative
Bank. Cherry Road, Salem-1.

- 1 cc To Mr.M.R.Raghavan, Advocate, SR.58417.
1 cc To Mr.S.Silambanan, Advocate, SR.57823.

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W.P.No.8313 of 2001

SSV(CO)
RVL 13.12.2006

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